



REPORT TO CITY PLAN COMMISSION

Plan Commission Meeting Date: May 11, 2015

Common Council Meeting Date: No formal action required.

Item: Spats - Minor Amendment to Special Use Permit #18-05 to expand the existing outdoor seating by 320 square feet with alcohol sales, service and consumption.

Case Manager: Don Harp

GENERAL INFORMATION

Owner/Applicant: Bill and Julie Neubert, Theadocia, LLC, owner/applicant

Address/Parcel #: 733 West College Avenue/31-3-0963-01

Petitioner's Request: The applicant is requesting a Minor Amendment to Special Use Permit #18-05 to expand the existing outdoor seating area for placement of tables and chairs within two existing parking spaces on the west side of the existing outdoor patio area with alcohol sales, service and consumption.

BACKGROUND

Special Use Permit #18-05 was approved for the restaurant and an outdoor patio area with alcohol sales at this location by the Plan Commission on August 8, 2005, and approved by the Common Council on August 17, 2005 subject to the following:

1. The serving and consumption of alcohol is limited to the interior ground floor and the outdoor seating area (west side of building) identified by the submitted floor plan/development plan. Any future expansions beyond the interior ground floor and the outdoor seating area (west side of building) identified by the submitted floor plan/development plan for the serving and/or consumption of alcohol may require a new Special Use Permit application to be applied for and approved.
 - *On-going condition.*
2. The off-street parking lot shall be striped in accordance with the development plan prior to issuance of a Certificate of Occupancy for the outdoor seating area.
 - *The parking lot is striped. Condition satisfied.*
3. All City of Appleton and State of Wisconsin Building Codes must be met.
 - *On-going condition.*

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4. The applicant shall apply for and receive a building permit from the City of Appleton Inspections Division prior to commencing construction on the outdoor seating area (west side of building) and the fence enclosure.
 - *Condition satisfied.*

5. All City of Appleton Fire Codes must be met, and a fire inspection must be conducted prior to issuance of an Occupancy Permit for the outdoor seating area.
 - *Condition satisfied.*

6. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.
 - *On-going condition.*

7. All Noise Ordinances shall be adhered to at all times.
 - *On-going condition.*

8. The applicant shall apply to the City Clerk to amend the current Liquor License to include the expansion area (outdoor seating with alcohol sales) used for the serving and/or consumption of alcohol. Any expansion of the tavern with alcohol sales requires approval of a premise description amendment of the existing liquor license from the Safety and Licensing Committee and Common Council.
 - *On-going condition.*

STAFF ANALYSIS

Existing Site Conditions: The property is developed with an existing restaurant/outdoor patio area that currently holds a “Class B” Beer/Liquor License which allows alcoholic beverages to be sold and consumed on the premises.

Operational Information for the Restaurant/Outdoor Seating Area: An operational plan is attached to the staff report. The use of the property is shown on the Development Plan.

- A 4-foot high rope will surround the exposed sides of the proposed outdoor seating area, and licensed bartending staff will monitor this area.

Surrounding Zoning and Land Uses:

North: CBD Central Business District – Retail Business
South: CBD Central Business District – Surface Parking Lot
West: CBD Central Business District – Retail Business
East: CBD Central Business District – Restaurant with Alcohol Sales

2010-2030 Comprehensive Plan: The Community Development staff has reviewed the City's 2010-2030 Comprehensive Plan which indicates this area is appropriate for commercial uses as part of the Central Business District.

Overall Community Goals

- **9.3. Objective:** Ensure the continued vitality of downtown and the City's neighborhood commercial districts. (Chapter 9 – Economic Development)
- **Goal 1 – Community Growth** (Chapter 10 – Land Use)
Appleton will continue to provide opportunities for residential, commercial and industrial growth, including appropriate redevelopment sites within the downtown and existing neighborhoods and greenfield development sites at the City's edge.

Off-Street Parking Requirements: Off-street parking spaces do not apply to uses within the Central Business District zoning district. However, the owner will need to designate an alternative handicapped parking space on the subject site when tables and chairs occupy the existing handicapped parking space adjacent to the College Avenue sidewalk.

Ordinance Requirements: This item has been referred to the Plan Commission per Section 23-66(g) of the Zoning Ordinance, which states:

(1) *Minor change.* Minor changes shall be submitted to and reviewed by the Plan Commission. Minor changes include:

- a. Expansions of special uses of less than ten (10) percent.

The proposed 320 square foot outdoor seating area constitutes less than 10% expansion.

- b. Other changes which keep with the general intent and character of the Special Use Permit previously issued.

This minor amendment request is consistent with the general intent and character of Special Use Permit #18-05, as the subject site will continue to be used for a restaurant and outdoor seating area with alcohol sales and consumption.

Note: Minor amendments to existing Special Use Permits do not require Common Council action.

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Finding of Fact: This request was reviewed in accordance with the standards for granting a Special Use Permit under 23-66 (e) (1-6), which were found in the affirmative.

Technical Review Group (TRG):

Health Department Comments:

Tableware may be placed on tables after a customer is seated. Do not pre-set tableware. Food must be covered to protect it from potential contamination from the time it leaves the kitchen until it is delivered to the outdoor seating area. Light music is planned for the area. Sound levels may not exceed the noise limitations set forth in Municipal Code Section 12-81.

RECOMMENDATION

Staff recommends, based on the above, that Minor Amendment to Special Use Permit #18-05, for a restaurant with an outdoor seating area with alcohol sales, service and consumption, as shown on the attached map and per attached plan of operation, **BE APPROVED** to run with the land at 733 West College Avenue subject to the following conditions:

1. The serving and consumption of alcohol is limited to the interior ground floor and the outdoor seating area (west side of building) identified by the submitted floor plan/development plan. Any future expansions beyond the interior ground floor and the outdoor seating area (west side of building) identified by the submitted floor plan/development plan for the serving and/or consumption of alcohol may require a new Special Use Permit application to be applied for and approved.
2. All City of Appleton and State of Wisconsin Building Codes must be met.
3. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.
4. All Noise Ordinances shall be adhered to at all times.
5. The applicant shall apply to the City Clerk to amend the current Liquor License to include the expansion area (outdoor seating with alcohol sales) used for the serving and/or consumption of alcohol. Any expansion of the tavern with alcohol sales requires approval of a premise description amendment of the existing liquor license from the Safety and Licensing Committee and Common Council.

**TAVERN AND/OR RESTAURANT WITH ALCOHOL SALES
PLAN OF OPERATION AND LOCATIONAL INFORMATION**

Business Information:

Name of business: 5 Pats

Years in operation: 15

Percentage of business derived from restaurant service: 100 %

Type of proposed establishment (detailed explanation of business):

Restaurant

Proposed Hours of Operation for Indoor Uses:

Day	From	To
Week Day	11 AM	9 PM
Friday	11 AM	10 PM
Saturday	11 AM	10 PM
Sunday	3 PM	9 AM

Building Capacity and Area:

Maximum number of persons permitted to occupy the building or tenant space as determined by the International Building Code (IBC) or the International Fire Code (IFC), whichever is more restrictive: 150 persons

Gross floor area of the existing building(s): 2336 Sq Ft

Gross floor area of the proposed building(s): NA

Describe Any Potential Noise Emanating From the Proposed Use:

Describe the noise levels anticipated from all equipment or other mechanical sources:

Light Dinner music

Describe how the crowd noise will be controlled inside and outside the building:

By staff

If off-street parking is available for the business, describe how noise from the parking lot will be controlled:

NA

Outdoor Uses:

Location, type, size and design of outdoor facilities:

West of Existing Patio

Type and height of screening of plantings/fencing/gating:

4ft High Roped in + monitored by Licensed Bartended Staff

Is there any alcohol service incorporated in this outdoor facility proposal? Yes No

Are there plans for outdoor music/entertainment? Yes No

If yes, describe how the noise will be controlled:

By staff

Is there any food service incorporated in this outdoor facility proposal? Yes No

Proposed Hours of Operation for Outdoor Uses:

Day	From	To
Week Day	11 AM	9 PM
Friday	11 AM	10 PM
Saturday	11 AM	10 PM
Sunday	3 PM	9 PM

Outdoor Lighting:

Type: on Building + Poles

Location: shops

Off-Street Parking:

Number of spaces existing:

Number of spaces proposed:

Other Licensed Premises:

The number of licensed premises within the immediate geographic area of the proposed location will be considered in order to avoid an undue concentration that may have the potential of creating public safety problems or deterring neighborhood development.

List nearby licensed premises:

Frank's

Dung PO

Number of Employees:

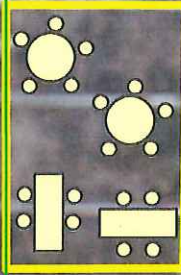
Number of existing employees: 15-20

Number of proposed employees: 15-20

Number of employees scheduled to work on the largest shift: 15

W. College Avenue

733 West College Avenue - Spats
Minor Amendment to Special Use Permit #18-05
Outdoor seating area with
Alcohol Sales/Consumption



Proposed 320 s.f. outdoor seating area with alcohol sales/consumption in conjunction with live music events and other special occasions.



ADA Parking Space

CBD

